



Department of Justice

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JUSTICE DEPARTMENT WILL NOT CHALLENGE PROPOSAL TO FORM PROVIDER NETWORK IN SANTA FE, NEW MEXICO

WASHINGTON, D.C. -- The Department of Justice's Antitrust Division does not plan to challenge the formation of a provider-controlled network joint venture in Santa Fe, New Mexico that will provide hospital and physician services to health insurance plans and other third-party payers.

The venture, to be known as Santa Fe Managed Care Organization, will be organized as a nonprofit corporation.

St. Vincent's Hospital, which is the only acute care hospital open to the general public in the Santa Fe area, and approximately 70-75 physicians with offices in the city are expected to be members in the organization. The organization will also supplement its physician panel by subcontracting individually with additional physicians to offer payers a panel that could include virtually all of the physicians in Santa Fe.

Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division, said that although Santa Fe Managed Care Organization's proposal creates the potential for anticompetitive conduct that could cause harmful effects on consumers, it also has the potential for creating significant efficiencies by offering payers capitation and global fee arrangements that are not now generally available in the Santa Fe area. Klein said that under all

the circumstances described in the proposal, the Department was unable to conclude that the plan would likely cause anticompetitive harm if it is implemented as proposed.

Both Santa Fe Managed Care Organization's members and its non-member participating physicians will participate in the network on a non-exclusive basis. There will be no restriction on their ability to compete with the organization, and they will not be discouraged from joining other networks or contracting directly with health benefits plans. The organization's primary interest is in negotiating risk contracts with payers. For contracts that do not involve substantial financial risk sharing among its members, the organization will act as a "messenger" to facilitate contracting between third-party payers and its individual member and non-member participating physicians.

The compensation of Santa Fe Managed Care Organization's members will be linked to its overall financial performance through a formula that will make them liable for a share of the organization's deficits and eligible for a share of its surplus. The compensation of the organization's non-member (subcontracting) physicians will not depend on the overall economic performance of the organization.

The arrangements the Santa Fe Managed Care Organization will use in subcontracting with non-member physicians will also include other requirements designed to create divergence of economic interest between member and non-member physicians. The organization will be structured so that it will have the incentive to bargain down the compensation paid to non-member participating physicians.

Santa Fe Managed Care Organization will also have limits on the number of its physician members. With three exceptions, its member physicians together with any physician employees

of St. Vincent's will not exceed 30 percent of the physicians with offices in the City of Santa Fe in any physician specialty. The exceptions are for: physician specialties in which all the Santa Fe Managed Care Organization member physicians in the specialty are in a preexisting integrated practice group that has not been formed or expanded to avoid the 30 percent limitation; family practitioners and internists who are represented to be good substitutes for each other in the Santa Fe area; and pediatricians.

Santa Fe Managed Care Organization will also invite La Familia Health Center, a publicly-funded health care clinic in Santa Fe that provides a substantial portion of the care for the uninsured and those covered by Medicaid in the community, to send a representative to its board meetings in an advisory or "ex officio" capacity.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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